

## OPINION SUMMARY

### MISSOURI COURT OF APPEALS EASTERN DISTRICT

MOLLY EDWARDS, et al.,	)	No. ED99389
	)	
Appellants,	)	Appeal from the Circuit Court
	)	of St. Louis County
vs.	)	
	)	Honorable Thea Anne Sherry
CITY OF ELLISVILLE, and	)	
AMERICAN TRAFFIC	)	
SOLUTIONS, INC.,	)	
	)	FILED: November 5, 2013
Respondents.	)	

Appellants Molly and Anthony Edwards (“Edwards”), Gregory and Amanda Bissell (“Bissells”), John and Shella Annin (“Annins”), and Joseph and Salvatore Cusumano (“Cusumanos”) (collectively “Appellants”) appeal from the judgment of the trial court granting separate and joint motions to dismiss filed by Respondents City of Ellisville (“Ellisville”) and American Traffic Solutions, Inc. (“ATS”). Appellants received violation notices from Ellisville stating that they violated Ellisville’s red light camera ordinance because a motor vehicle owned by them was present in an intersection while the traffic light was emitting a steady red signal. Appellants challenged the validity of the Ordinance in an eight-count petition. The petition sought declaratory judgment regarding the Ordinance’s constitutionality, validity, and conformity with state law, as well as Ellisville’s authority to enact the Ordinance. Appellants also asserted that the Ordinance violated procedural due process and the privilege against self-incrimination, and they alleged claims of unjust enrichment, money had and received, and civil conspiracy against Ellisville and ATS.

Ellisville and ATS filed joint and separate motions to dismiss Appellants’ petition. The trial court granted Respondents’ motions and dismissed all of Appellants’ claims with prejudice without an extended opinion. Appellants now appeal the trial court’s judgment, but do not appeal the dismissal of their civil conspiracy or self-incrimination claims.

**AFFIRMED IN PART, REVERSED IN PART.**

Division III Holds: The Annins and Cusumanos have an adequate remedy at law and may raise their claims in municipal court. We affirm the judgment of the trial court dismissing their claims. Because the Edwards and Bissells have standing to challenge the validity of the Ordinance, we reverse the judgment of the trial court and its dismissal of Count I on the issue of standing. However, we affirm the trial court’s dismissal of Count I on the Edwards’ and Bissells’ constitutional due process claims on the grounds of waiver and estoppel. Because the Edwards and Bissells are precluded from raising their constitutional claims due to waiver and estoppel, we do not address the substantive issues of whether the Ordinance violates procedural due process or whether sovereign immunity protects Ellisville from constitutional claims. We reverse the trial

court's judgment dismissing Count I because a factual issue exists as to whether the Ordinance was properly enacted pursuant to Ellisville's police power. However, we do not remand the issue of revenue-generation for discovery because any remand is mooted by our holding that the Ordinance is void because it conflicts with state law. We reverse the trial court's judgment dismissing Count I because the Ordinance conflicts with Missouri law on the same subject in violation of Section 304.120.3. Specifically, the Ordinance conflicts with Sections 304.281, 302.225, and 302.302. We hold the Ordinance is void and unenforceable as a matter of law. Despite our holding that the Ordinance is void, and unenforceable, we affirm the trial court's judgment dismissing the Edwards' and Bissells' claims for unjust enrichment and money had and received because the voluntary payment doctrine operates as a complete defense these claims.

Opinion by: Kurt S. Odenwald, J., Mary K. Hoff, P.J., and Angela T. Quigless, J., Concur.

Attorney for Appellants: John G. Simon and Ryan A. Keane

Attorney for Respondent—City of Ellisville: Peter J. Dunne and Robert T. Plunkert

Attorney for Respondents—American Traffic Solutions, Inc.: Jane E. Dueker and Nicholas Frey

**THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.**